

D/F

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

GREGORY WHITE,

Plaintiff,

-against-

PAROL OFFICER EARL COVINGTON; POLICE  
OFFICER DARIEN R. QUASH, Shield # 29652;  
MICHAEL CAPUANO, Senior Court Reporter;  
JANE DOE,

Defendants.

X  
**ORDER**

**07-CV-1844 (NGG) (LB)**

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ DEC 21 2011 ★

NICHOLAS G. GARAUFIS, United States District Judge.

BROOKLYN OFFICE

By letter to the court, (Docket Entry # 152), the defendants request that the court lift a stay in this case and grant them leave to re-file their motions for summary judgment, which were dismissed without prejudice when the stay was imposed. Because the stay is no longer needed, the court GRANTS the defendants' request.

On February 12, 2010, the court stayed pro se Plaintiff Gregory White's action pending resolution of White's state criminal case. (See Mem. & Order of Feb. 12, 2010 ("Mem. & Order") (Docket Entry # 132).) White had sued a variety of state and local officials under 42 U.S.C. § 1983, alleging that a search and seizure related to his 2007 conviction in state court for possession of a controlled substance violated his Fourth Amendment rights. (See 2d Am. Compl. (Docket Entry # 8).) While White's civil rights action was pending in this court, the New York Supreme Court's Appellate Division overturned his conviction. (Mem. & Order.) The State then re-indicted White, giving rise to a parallel state criminal proceeding. (Id.) To address the federalism concerns discussed in Younger v. Harris, the court stayed the action and dismissed the

defendants' motions for summary judgment without prejudice. (See *id.*)

According to the defendants White plead guilty in 2010 to the crime charged in the re-indictment, and the Appellate Division affirmed his conviction this November.<sup>1</sup> Without a pending state court action, Younger is no longer implicated and there is no reason to continue the stay.

The stay is lifted, and the defendants are granted leave to re-file and supplement their motions for summary judgment pursuant to the following schedule: The defendants shall file their new motions for summary judgment no later than February 20, 2012, White shall file his opposition by April 2, 2012, and the defendants shall file their replies—if any—by April 16, 2012.

SO ORDERED.

Dated: Brooklyn, New York  
December 19, 2011

s/Nicholas G. Garaufis

NICHOLAS G. GARAUFIS  
United States District Judge

---

<sup>1</sup> The defendants concede that time remains for White to petition the Court of Appeals for leave to appeal further, but argue that “the possibility of leave being granted is sufficiently remote [so as] to not inhibit lifting the stay. The court agrees.